

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

LEROY COLLINS,

Plaintiff,

v.

PATRICK HENDRICKS et al.,

Defendants.

2:15-cv-01696-JCM-CWH

**ORDER**

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff has submitted an application to proceed *in forma pauperis*. (ECF No. 1). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on September 14, 2016. (ECF No. 5). The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF No. 5, 7). The Office of the Attorney General has filed a status report indicating that settlement has not been reached and informing the Court of its intent to proceed with this action. (ECF No. 17).

On October 20, 2016, Plaintiff filed a motion to compel the Attorney General's Office to provide Plaintiff with the last known addresses of Defendants. (ECF No. 8). The Court denies this motion as moot. This order discusses procedures for providing last known addresses of Defendants.

On November 10, 2016, Plaintiff filed a motion for leave to file an amended complaint and attached a proposed second amended complaint. (ECF No. 13, 13-1). In the motion,

1 Plaintiff requests leave to file an amended complaint for the purpose of correcting the spelling  
2 of Defendant Hendrix's last name to "Hendricks." (ECF No. 13 at 1). In the motion, Plaintiff  
3 notes that Hendricks is a former NDOC employee and lists the address of Patrick Hendricks's  
4 current employer. (*Id.* at 2). The proposed second amended complaint (ECF No. 13-1) is  
5 identical to the first amended complaint (ECF No. 4) with the exception of the first page of the  
6 second amended complaint. The first page of the second amended complaint changes the  
7 name "Hendrix" to "Hendricks." (*Compare* ECF No. 4 at 1, *with* ECF No. 13-1 at 1).

8 On November 14, 2016, Defendants filed a motion to strike Plaintiff's motion for leave  
9 to amend complaint. (ECF No. 14). In the motion, Defendants note that Plaintiff's motion was  
10 filed in violation of the stay. (*Id.* at 2). Defendants also note that putting identifiable  
11 information about a current or former NDOC employee into the public domain causes  
12 significant security and safety concerns. (*Id.* at 2-3). Defendants request that the Court strike  
13 Plaintiff's motion or place the motion under seal to ensure that Hendricks's address be stricken  
14 from the public record. (*Id.* at 3).

15 The Court now grants in part Plaintiff's motion to file a second amended complaint.  
16 (ECF No. 13). The Court also grants Defendants' motion to place the motion to amend (ECF  
17 No. 13) under seal. (ECF No. 14). The operative complaint will be the second amended  
18 complaint (ECF No. 13-1). **The Court will not issue a subsequent screening order on the**  
19 **second amended complaint because it is identical in substance to the first amended**  
20 **complaint.** The parties shall reference the screening order from September 14, 2016. (ECF  
21 No. 5).

22 For the foregoing reasons, IT IS ORDERED that:

23 1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is GRANTED.  
24 Plaintiff shall not be required to pay an initial installment of the filing fee. In the event that this  
25 action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

26 2. The movant herein is permitted to maintain this action to conclusion without the  
27 necessity of prepayment of any additional fees or costs or the giving of security therefor. This  
28 order granting leave to proceed *in forma pauperis* shall not extend to the issuance and/or

1 service of subpoenas at government expense.

2 3. Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections shall  
3 pay to the Clerk of the United States District Court, District of Nevada, 20% of the preceding  
4 month's deposits to Plaintiff's account (**Leroy Collins, #13022**), in the months that the account  
5 exceeds \$10.00, until the full \$350.00 filing fee has been paid for this action. The Clerk of the  
6 Court shall **SEND** a copy of this order to the Finance Division of the Clerk's Office. The Clerk  
7 of the Court shall also **SEND** a copy of this order to the attention of the Chief of Inmate  
8 Services for the Nevada Department of Corrections, P.O. Box 7011, Carson City, NV 89702.

9 4. The motion for leave to amend (ECF No. 13) is granted in part. The Clerk of the  
10 Court shall detach and file the second amended complaint (ECF No. 13-1) in a separate  
11 docket entry. The second amended complaint is now the operative complaint in this case.

12 5. The motion to strike (ECF No. 14) is granted in part. The Clerk of the Court shall  
13 seal the motion for leave to amend (ECF No. 13).

14 6. The Clerk of the Court shall electronically **SERVE** a copy of this order and a copy  
15 of Plaintiff's second amended complaint (ECF No. 13-1) on the Office of the Attorney General  
16 of the State of Nevada, attention Kat Howe.

17 7. Subject to the findings of the screening order (ECF No. 5), within **twenty-one**  
18 **(21) days** of the date of entry of this order, the Attorney General's Office shall file a notice  
19 advising the Court and Plaintiff of: (a) the names of the defendants for whom it accepts  
20 service; (b) the names of the defendants for whom it does not accept service, and (c) the  
21 names of the defendants for whom it is filing the last-known-address information under seal.  
22 As to any of the named defendants for whom the Attorney General's Office cannot accept  
23 service, the Office shall file, *under seal*, but shall not serve the inmate Plaintiff the last known  
24 address(es) of those defendant(s) for whom it has such information. If the last known address  
25 of the defendant(s) is a post office box, the Attorney General's Office shall attempt to obtain  
26 and provide the last known physical address(es).

27 8. If service cannot be accepted for any of the named defendant(s), Plaintiff shall  
28 file a motion identifying the unserved defendant(s), requesting issuance of a summons, and

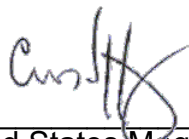
1 specifying a full name and address for the defendant(s). For the defendant(s) as to which the  
2 Attorney General has not provided last-known-address information, Plaintiff shall provide the  
3 full name and address for the defendant(s).

4 9. If the Attorney General accepts service of process for any named defendant(s),  
5 such defendant(s) shall file and serve an answer or other response to the complaint within  
6 **sixty (60) days** from the date of this order.

7 10. Henceforth, Plaintiff shall serve upon defendant(s) or, if an appearance has been  
8 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other document  
9 submitted for consideration by the Court. Plaintiff shall include with the original document  
10 submitted for filing a certificate stating the date that a true and correct copy of the document  
11 was mailed or electronically filed to the defendants or counsel for the defendants. If counsel  
12 has entered a notice of appearance, Plaintiff shall direct service to the individual attorney  
13 named in the notice of appearance, at the physical or electronic address stated therein. The  
14 Court may disregard any document received by a district judge or magistrate judge which has  
15 not been filed with the Clerk, and any document received by a district judge, magistrate judge,  
16 or the Clerk which fails to include a certificate showing proper service.

17 11. The motion to compel (ECF No. 8) is denied as moot.

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19 DATED: December 15, 2016.

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United States Magistrate Judge